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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,) No: CR 00-00645-CRB
12 Plaintiff,)
13 v.) ORDER OF DETENTION
14 ANDREW WILL SMITH,)
15 Defendant.)
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18 This matter came before the Court on April 1, 2013 for detention hearing in
19 connection with a charge of violating supervised release conditions in the above matter.
20 Defendant Andrew Will Smith was represented by Brandon LeBlanc and the government
21 was represented by Acadia Senese, Assistant United States Attorney.

22 As this matter involves an alleged violation of the terms of Mr. Smith's supervised
23 release, Mr. Smith bears the burden of showing by clear and convincing evidence that he
24 does not pose a risk of flight and is not a danger to the safety of another person or the
25 community. *United States v. Loya*, 23 F.3d 1529, 1531 (9th Cir. 1994); 18 U.S.C.
26 § 3143(a). After conducting a detention hearing, and carefully considering the proffers
27 from the parties and the Probation Department, the Court could not find by clear and
28 convincing evidence that there are a set of conditions of release that can reasonably assure

ORDER RE
DETENTION
00-cr-00645 CRB

1 Defendant's appearance as required at court or that he does not pose a danger to another
2 person or the community. The Court's finding was based, in large part, on Mr. Smith's
3 long history of Form 12 violations and his unsuccessful efforts at treatment for his drug
4 addiction. While the Court appreciated that Mr. Smith expressed a willingness to engage
5 in a new outpatient treatment program, in light of his repeated past failures at both
6 residential and outpatient treatment, the Court finds that he is not amenable to supervision
7 at this time and thus poses both a danger and a risk of non-appearance.

8 For the foregoing reasons, Defendant is ordered DETAINED pending resolution of
9 the Form 12 petition filed March 25, 2013.

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11 DATED: April 2, 2013



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE

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ORDER RE
DETENTION
00-cr-00645 CRB